

**2013 DRAFTING REQUEST**

**Assembly Amendment (AA-AB40)**

Received: **6/6/2013** Received By: **jkreye**  
Wanted: **As time permits** Same as LRB:  
For: **Legislative Fiscal Bureau** By/Representing: **Moran**  
May Contact: Drafter: **jkreye**  
Subject: **Tax, Other - sales** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Legislative Fiscal Bureau**  
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

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**Pre Topic:**

LFB:.....Moran -

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**Topic:**

Paper 299: exemption certificate for reporting sales and use taxes

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 6/7/2013			_____			
/P1		jdyer 6/7/2013	jmurphy 6/7/2013	_____	sbasford 6/7/2013		

FE Sent For:

<END>

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/?	jkreye	<i>P1 6/7 jld</i>					

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## **Legislative Fiscal Bureau**

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Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

May 29, 2013

Joint Committee on Finance

Paper #299

### **Exemption Certificate Reporting for Sales and Use Taxes (General Fund Taxes -- Sales and Excise Taxes)**

[LFB 2013-15 Budget Summary: Page 186, #9]

#### **CURRENT LAW**

The 5% state sales and use tax is generally imposed on the sale, use, or other consumption of items, property, or taxable services in Wisconsin. Current law provides exemptions from the tax for certain entities and provides exemptions that are based on how a taxable item or service is used after being purchased. If a purchaser is an exempt entity or is using the taxable item or service in a manner provided a use-based exemption, the purchaser may present a retailer with a fully completed exemption certificate, which would generally exempt the purchase from the tax and relieve the seller's obligation to remit the tax to the state. A retailer who receives an exemption certificate after reporting a sale as taxable may claim a refund of the tax paid by filing an amended return for the period in which the transaction was originally reported.

#### **GOVERNOR**

Specify that, for laws governing return adjustments under the general sales and use tax, a retailer who receives an exemption certificate after reporting a sale as taxable may choose to either: (a) claim a deduction for the tax amount on a subsequent return; or (b) file an amended return for the period in which the transaction was originally reported. The Department of Revenue (DOR) anticipates that this provision would have a minimal impact on the general fund.

#### **MODIFICATION**

Modify the Governor's proposal to specify that a retailer may claim a deduction on a subsequent sales tax return if the retailer receives an exemption certificate from a purchaser and:

(a) the deduction is claimed in the same reporting period in which the retailer received the exemption certificate; (b) the exemption certificate was received in the same taxable year of the retailer as the reporting period in which the tax was paid; (c) the sales price or purchase price was previously reported as taxable and the retailer previously paid the tax to DOR; and (d) the retailer has returned to the buyer, in cash or in credit, all tax previously paid by the buyer.

**Explanation:** The administration indicates that this modification would better reflect the Governor's intent. There are two substantive modifications to the Governor's proposal. First, a retailer could only claim a deduction from the tax for an exemption certificate if the deduction was claimed in the same reporting period in which the exemption certificate was received. Second, the deduction could only be claimed if the retailer received the exemption certificate in the same taxable year as the reporting period in which the tax was previously paid. These two limitations were not included in the Governor's original proposal. If these conditions are not met and a retailer receives an exemption certificate after sales tax was remitted to the state, current law permits a retailer to file an amended return for the reporting period in which the tax was paid and the retailer may claim a refund for the amount of tax previously paid. The modification is not anticipated to have a fiscal impact.

Prepared by: Sean Moran

## 2013-15 Budget Errata Report

Title	Allow a deduction on sales tax returns for exemption certificates received after reported
Date	3/15/2013
Agency	Revenue
Fiscal Change to the Bill	
Position Change to Bill	
Errata Type	Budget Bill
Citation	Page 737, Section 1499 (lines 21-24)
Description of Error	The use of the term "tax amount" is inaccurate since the amount of the deduction is on the sales price previously reported as taxable. The suggested language also clarifies time frames, creates consistency with other sales tax refund statutes, and conforms to general exemption certificate standards.
Correction of Error	<u>"A retailer who receives an exemption certificate that complies with s. 77.52(14) after reporting a sale covered by the exemption certificate as taxable, having paid the tax to the department, and having returned to the buyer in cash or in credit all tax previously paid by the buyer, may claim a deduction on the return filed for the reporting period in which the exemption certificate is received, for the sales price or purchase price previously reported as taxable. This provision does not apply when the reporting period in which the exemption certificate is received is in a taxable year of the retailer that is subsequent to the taxable year of the retailer in which the sale covered by the exemption certificate occurred. In this subsection, "taxable year of the retailer" is the same as the retailer's taxable year under ch. 71."</u>
Analyst Name	Emily Ley
Phone Number	266-7597



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBb0380/P1

JK: A:.....

jld

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**FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION**  
**ASSEMBLY AMENDMENT ,**  
**TO ASSEMBLY BILL 40**

in 6-7-13

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 737, line 20: delete lines 20 to 24 and substitute:
- 3 **"SECTION 1499d.** 77.585 (10) of the statutes is created to read:
- 4 77.585 (10) A retailer who receives an exemption certificate that complies with
- 5 s. 77.52 (14) after reporting a sale covered by the exemption certificate as taxable,
- 6 having paid the tax to the department, and having returned to the buyer in cash or
- 7 in credit all tax previously paid by the buyer, may claim a deduction on the return
- 8 filed for the reporting period in which the exemption certificate is received, for the
- 9 sales price or purchase price previously reported as taxable. This subsection does not
- 10 apply if the reporting period in which the exemption certificate is received is in a
- 11 taxable year of the retailer that is subsequent to the taxable year of the retailer in

1 which the sale covered by the exemption certificate occurred. For purposes of this  
2 subsection, the taxable year of the retailer is the same as the retailer's taxable year  
3 under ch. 71."

**(END)**



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBb0380/P1  
JK:jld:jm

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1     which the sale covered by the exemption certificate occurred. For purposes of this  
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3     under ch. 71.”.

4                                   **(END)**